



Department of
**Environment &
Conservation**

Public Hearing
Water Quality, Oil and Gas Board
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, Nashville
and via WebEx
April 18, 2023– 10:00am

*If you wish to make Public Comment, please fill out a yellow comment card, or if virtual please email Drake.Smarch@tn.gov or message the chat box. Include what you want to comment on, and you will to be placed in line.

Welcome!

- Opening remarks from the Division of Water Resources Director, Jennifer Dodd.
- Roll call of Board members present.

Board Minutes

- Presentation of minutes from October 2022
- **Vote** for approval of minutes.
- Minutes are available on the Board's website: <https://www.tn.gov/environment/about-tdec/boards-and-commissions/board-tennessee-board-of-water-quality--oil-and-gas.html>

General Public Comment

- If you wish to make a public comment:
 - In-Person
 - Fill out a yellow comment card
 - Virtual
 - Let the host know in the Chat Box
 - Email Drake.Smarch@tn.gov



Department of
**Environment &
Conservation**

Division of Water Resources Updates

Jennifer Dodd – Director – Division of Water Resources



Department of
**Environment &
Conservation**

TDEC OGC & Contested Case Updates

Board of Water Quality, Oil, and Gas April 18, 2023

Orders and Appeals

From October 1, 2022-March 31, 2023

- DWR has issued 46 new enforcement orders.
 - 16 drinking water
 - 24 NPDES and/or ARAP
 - 7 orders have been appealed
 - 13 orders have become final
 - 3 Order appeals and 2 settlement agreements
- During this time there have been three new permittee appeals and one new third-party permit appeal.
- In addition, during this time, four Section 118(a) complaints were filed, and one Section 118(a) determination was appealed.

TDEC v. Premium Coal, 04.30-223214J

- Appeal of Director's Order alleging Respondent had causing a causing a condition of pollution and violating terms & conditions of the permit by not maintaining and properly operating treatment systems at the site.
- TDEC filed motion to dismiss appeal because appeal was not filed by a licensed attorney.
- Initial Order dismissing appeal was issued January 10, 2023.
- Neither party has appealed.

Initial Orders

The administrative judge's initial order, together with any earlier orders issued by the administrative judge, shall become final unless appealed to the board by the commissioner or other party within thirty (30) days of entry of the initial order or, unless the board passes a motion to review the initial order pursuant to § 4-5-315, within the longer of thirty (30) days or seven (7) days after the first board meeting to occur after entry of the initial order. Upon appeal to the board by a party, or upon passage of a motion of the board to review the administrative judge's initial order, the board shall afford each party an opportunity to present briefs, shall review the record and allow each party an opportunity to present oral argument. If appealed to the board, the review of the administrative judge's initial order shall be limited to the record, but shall be de novo with no presumption of correctness.

Tenn. Code Ann. § 69-3-110(a)

Initial Orders

The administrative judge's initial order, together with any earlier orders issued by the administrative judge, shall become final unless appealed to the board by the commissioner or other party within thirty (30) days of entry of the initial order or, unless the board passes a motion to review the initial order pursuant to § 4-5-315, within the longer of thirty (30) days or seven (7) days after the first board meeting to occur after entry of the initial order. Upon appeal to the board by a party, or upon passage of a motion of the board to review the administrative judge's initial order, the board shall afford each party an opportunity to present briefs, shall review the record and allow each party an opportunity to present oral argument. If appealed to the board, the review of the administrative judge's initial order shall be limited to the record, but shall be de novo with no presumption of correctness.

Tenn. Code Ann. § 69-3-110(a)

Initial Orders

The administrative judge's initial order, together with any earlier orders issued by the administrative judge, shall become final unless appealed to the board by the commissioner or other party within thirty (30) days of entry of the initial order or, unless the board passes a motion to review the initial order pursuant to § 4-5-315, within the longer of thirty (30) days or seven (7) days after the first board meeting to occur after entry of the initial order. Upon appeal to the board by a party, or upon passage of a motion of the board to review the administrative judge's initial order, the board shall afford each party an opportunity to present briefs, shall review the record and allow each party an opportunity to present oral argument. If appealed to the board, the review of the administrative judge's initial order shall be limited to the record, but shall be de novo with no presumption of correctness.

Options

- Pass a motion to review the initial order;
- Pass a motion not to review the initial order; or
- Take no action, which result in the initial order becoming a final order in 7 days.



Department of
**Environment &
Conservation**

**Oral Argument on Appeal of Initial Order
Mark E. Clayton v. TDEC**



Department of
**Environment &
Conservation**

Public Hearing
Water Quality, Oil and Gas Board
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, Nashville
and via Microsoft Teams

Any Old Business?

Thank you for joining us.
Any questions, please direct to
Drake.Smarch@tn.gov